

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Promote Policy  
and Program Coordination and Integration in  
Electric Utility Resource Planning.

Rulemaking 04-04-003  
(Filed April 1, 2004)  
Mohave Subset

**ADMINISTRATIVE LAW JUDGE'S RULING  
ON NATURAL RESOURCES DEFENSE COUNCIL'S  
SUPPLEMENTAL NOTICE OF INTENT TO CLAIM COMPENSATION**

On August 11, 2005, the Natural Resources Defense Council (NRDC) filed a Supplemental Notice of Intent to Claim Intervenor Compensation (NOI) in this continuing post-decision phase of the Mohave Generating Plant (Mohave) proceeding. No responses have been received.

This proceeding (Rulemaking (R.) 04-04-003) has functioned as the Commission's "umbrella" proceeding for handling matters relating to the major Investor Owned Utilities' (IOU) procurement issues. In May 2002, Southern California Edison Company (SCE) filed an application (A.02-05-046) requesting authorization from the Commission to either retrofit Mohave with pollution controls so it could continue to run as a coal-fired plant, or make preparations to close it by the end of 2005.

In December 2004, the Commission issued Decision (D.) 04-12-016 on SCE's Mohave application. That decision closed A.02-05-046, but also asked SCE and other stakeholders to study alternatives to Mohave continuing operation as a coal-fired plant. Since A.02-05-046 was closed, the "umbrella" R.04-04-003 was used to create a service subset for any filings in the Mohave matter.

NRDC filed a NOI for compensation in A.02-05-046 and was found eligible. Following the issuance of D.04-12-016, NRDC filed a request for compensation and received an award.

NRDC has been, and plans to continue to be a participant in the meetings and negotiations on the Mohave alternatives study. NRDC is filing this supplemental NOI to give notice that it intends to seek compensation for this participation.

## **1. Timely Filing**

No prehearing conference (PHC) was held in this post-decision phase of the proceeding, but the first stakeholders meeting was on July 13, 2005. NRDC filed its supplemental NOI on August 11, 2005, within 30 days of the first “event” in this continuing phase of the proceeding. (§ 1804(a)(1).) The filing is timely.

## **2. Customer**

The Public Utilities Code defines customer in three ways, which the Commission has in turn categorized as:

Category 1: a participant representing consumers.

Category 2: a representative authorized by a customer

Category 3: a representative of a group or organization that is authorized by its articles or bylaws to represent the interests of residential customers.

(Section 1802(b); Decision (D.) 98-04-059, 79 CPUC2d 628.)

NRDC is a “representative of a group of organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers . . .” NRDC included a relevant section of its bylaws in an Attachment to its filing.

NRDC is a nonprofit membership organization with a long-standing interest in minimizing the societal costs of the reliable energy services that a

healthy California economy requires. The particular focus of NRDC is on the utility industry's delivery of cost-effective energy efficiency programs, renewable energy resources and other sustainable energy alternatives. NRDC was an active participant in the Mohave application proceeding and was granted intervenor compensation for work performed in A.02-05-046 in D.05-06-024. NRDC has members dispersed throughout the state and the majority of these members are residential customers of the IOUs, including SCE.

NRDC qualifies as a Category 3 customer.

### **3. Adequacy of Representation**

NRDC asserts that it is the only intervenor that will prioritize the need to preserve environmental quality while minimizing the societal costs of providing electric service through energy efficiency, renewable resources, and other cost-effective alternative energy resources.

The Commission has found that participation in Commission proceedings by parties representing the full range of affected interests is important. Such participation assists the Commission in ensuring that the record is fully developed and that each customer group receives adequate representation. (See, for example, Ruling issued July 7, 1999, page 3, in A.98-09-003, et al.) NRDC represents customers who have a concern for the environment which distinguishes their interests from the interest of other consumer advocates participating in this proceeding.

### **4. Significant Financial Hardship**

A finding of significant financial hardship creates a rebuttable presumption of eligibility for compensation in other Commission proceedings commencing within one year of the date of that finding. (§ 1804(b)(1).) NRDC obtained a finding of significant financial hardship in a ruling issued by

Administrative Law Judge (ALJ) Wetzell in R.04-04-003, dated July 27, 2004. This proceeding is ongoing, so the rebuttable presumption applies in this case.

## **5. Nature and Extent of Planned Participation**

The NOI must include a statement of the nature and extent of the customer's planned participation as far as it is possible to set out when the NOI is filed. (§ 1804(a)(2)(A)(i).) NRDC states that depending on the nature of the ongoing Mohave alternatives meetings, NRDC plans to be an active participant. To the extent possible, NRDC plans to coordinate its participation with other parties to avoid duplication.

## **6. Itemized Estimate of Costs of Participation**

The NOI must include an itemized estimate of the compensation that the customer expects to request, given the likely duration of the proceeding as it appears at the time the NOI is filed. (§ 1804(a)(2)(A)(ii).) NRDC states that it expects to request compensation in the amount of \$60,500:

|               |   |                 |
|---------------|---|-----------------|
| Dan Lashof    | 50 hours of professional time<br>@\$215/hr. | \$10,750        |
| David Beckman | 25 hours of professional time<br>@\$275/hr. | 6,875           |
| Jody London   | 125 hours of consultant time<br>@\$175/hr.  | 21,875          |
| Jim Lazar     | 75 hours of consultant time<br>@\$200/hr.   | 15,000          |
| Expenses      |   | 6,000           |
| <b>Total</b>  |   | <b>\$60,500</b> |

NRDC states that it will provide time records, expense records and justification for hourly rates in a request for an award of compensation. NRDC further states that the actual amount of any future request for compensation will depend upon the amount of resources NRDC ends up devoting to the proceeding, as well as the Commission's ultimate decision in this case. The reasonableness of the 2005 hourly rates requested for NRDC's representatives will be addressed in NRDC's request for compensation, if one is filed.

NRDC satisfied the requirement that it include an itemized estimate of the compensation that the customer expects to request, given the likely duration of the proceeding as it appears at the time the NOI is filed.

**IT IS RULED that:**

1. The Natural Resources Defense Council (NRDC) timely filed a Notice of Intent to Claim Intervenor Compensation.
2. NRDC is a customer for the purposes of intervenor compensation (Category 3).
3. NRDC reasonably stated the adequacy of its representation.
4. NRDC established by unrebutted presumption that its participation without an award of intervenor compensation would pose a significant financial hardship.
5. NRDC reasonably stated the nature and extent of its planned participation, as far as it is possible to know as of the filing of the Notice of Intent.
6. NRDC presents a satisfactory itemization of an estimate of compensation it expects to request. The reasonableness of the hourly rates shall be addressed in the later request for compensation, if any, by NRDC.

7. NRDC is eligible for an award of intervenor compensation. The exact amount of the award, if any, shall be determined based on the reasonableness of NRDC's request for award, and this ruling "in no way ensures compensation." (§ 1804(b)(2).) The Commission may audit the records and books of NRDC to the extent necessary to verify the basis of the award. (§ 1804(d).)

Dated March 7, 2006, at San Francisco, California.

/s/ CAROL A. BROWN  
Carol A. Brown  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling on Natural Resources Defense Council's Supplemental Notice of Intent to Claim Compensation all parties of record in this proceeding or their attorneys of record.

Dated March 7, 2006, at San Francisco, California.

/s/ ERLINDA PULMANO

Erlinda Pulmano

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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